

FEB 06 2007

Serial No. 10/090,939
Page 10 of 12**R E M A R K S**

Applicants cancel claims 3 and 12. Claims 1-2, 4-11, and 13-18 remain pending in the application. Applicants amend claims 1 and 9 to incorporate the features of canceled claim 3, amend claim 10 to incorporate the features of canceled claim 12, and amend claim 16 to independent form. Applicants also amend the specification and claims 7-8, 10, and 17-18 for clarification. No new matter has been added.

Applicants acknowledge with appreciation the Examiner's finding that claims 3, 12, and 16 contain allowable subject matter, and respectfully submit that the provided reasons for allowability include only the Examiner's non-exhaustive interpretations—which should in no way limit the scope of the allowed claims. Accordingly, Applicants amend independent claims 1 and 9 to incorporate the features of allowable claim 3, amend independent claim 10 to incorporate the features of allowable claim 12, and amend allowable claim 16 to independent form.

The Examiner objected to the specification and claims 10-18 for apparent informalities, which Applicants correct by amendment.

Claims 7-8 and 17 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention.

Applicants amend claims 7-8 to clearly recite the feature "do not perform route switching if a fault bypass route has a section in which said non-preemptible channel has been established." And Applicants amend claim 17 to clearly recite the feature "when line switching for the BLSR

Serial No. 10/090,939

Page 11 of 12

restoration takes place at ends of a path as the fault bypass control condition." Accordingly,

Applicants respectfully request that the Examiner withdraw the § 112, ¶ 2 rejection.

Claims 1-2, 4-6, 9-11, 13-15, and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,950,409 to Kettinger in view of U.S. Patent No. 6,934,248 to DeBoer et al.

Since Kettinger only qualifies as a 35 U.S.C. § 102(e) prior art reference and was commonly owned by Fujitsu Limited, assignee of the claimed invention, it "shall not preclude patentability under this section" pursuant to 35 U.S.C. § 103(c). Nevertheless, for expeditious prosecution, Applicants amend independent claims 1 and 9 to incorporate the features of allowable claim 3, and amend independent claim 10 to incorporate the features of allowable claim 12. Accordingly, Applicants respectfully request that the Examiner allow claims 1-2, 4-11, and 13-18.

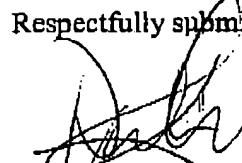
In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

84193956_1.DOC

Serial No. 10/090,939
Page 12 of 12

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,


Dexter T. Chang
Reg. No. 44,071

CUSTOMER NUMBER 026304

Telephone: (212) 940-6384

Fax: (212) 940-8986 or 8987

Docket No.: FUJR 19.495 (100794-00207)

DTC:bf

84193956_1.DOC